



November 20, 2019

***ExParte Notice***  
**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

***Re: Transforming the 2.5 GHz Band, WT Docket No. 18-120***

Dear Ms. Dortch:

On November 18, 2019, Kevin Shendo, Education Director for the Pueblo of Jemez and Keone Nakoa, D.C. Bureau Chief for the Office of Hawaiian Affairs, met with Federal Communications Commission Chairman, Ajit Pai, and Aaron Goldberger, Acting Wireless Advisor to the Chairman.

In this meeting, the Pueblo of Jemez Department of Education discussed the timeframe for the Tribal Priority Window and the pending Procedures Notice. Jemez expressed the critical need for extended outreach and education to all eligible entities, especially tribes in rural areas where spectrum is available and those eligible entities who may not be familiar with the FCC and its Tribal Priority Window of the *Transforming the 2.5 GHz Band*. Jemez recommended the opening of the window to be adjusted to ensure proper notice, guidance and engagement with tribes and all eligible entities. April 1, 2020 was recommended as the date to open the Tribal Priority Window, in order to grant a full 180 days so eligible entities have an opportunity to adequately prepare for and obtain the Tribal Priority License. This date is in line with Resolution #ABQ-19-86C passed by the National Congress of American Indians (NCAI). If a full 180 days could not be granted; to delay the opening of the window an additional 90 days with a 90 day window to apply, which can account for a total period of 180 days.

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The Office of Hawaiian Affairs (OHA) expressed they are in a unique situation, as under the current rules, they do not qualify for a license via the Tribal Priority Window (2.5 GHz), as they are neither a federally recognized tribe or Alaska Native Village. Hence, there is no eligible entity that can claim the licenses available over Hawaiian homelands. OHA commented that the consultation process seemed to be inadequate here and inconsistent with the long-standing FCC policy of including Native Hawaiians in consultation efforts. OHA reiterated the importance of the FCC consistently consulting with Native Hawaiians so that they are not mistakenly left out of programs like telehealth and this 2.5 GHz opportunity.

Copies of the NCAI Resolution #ABQ-19-86C passed at their 2019 Annual Convention, Titled: Providing for the Success of Tribal Nations in the 2.5 Gigahertz Broadband Tribal Priority for Wireless Networks were provided to Chairman Pai and Mr. Goldberger. As the priorities, points of discussion and recommendations made by the Pueblo of Jemez and the Office of Hawaiian Affairs are supported by the NCAI resolution.

Thank you for your attention to this correspondence. In accordance with Section 1.1206(b) of the Commission's rules, a copy of this letter is being filed via ECFS.

Respectfully submitted,

/s/ Kevin Shendo

Education Director  
Pueblo of Jemez  
P.O. Box 100  
Jemez Pueblo, NM 87024

Cc: Aaron Goldberger

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## NATIONAL CONGRESS OF AMERICAN INDIANS

### The National Congress of American Indians Resolution #ABQ-19-86C

#### **TITLE: Providing for the Success of Tribal Nations in the 2.5 Gigahertz Broadband Tribal Priority for Wireless Networks**

##### **EXECUTIVE COMMITTEE**

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*Quinault Indian Nation*

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*Tlingit & Haida Indian Tribes of  
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*Ponca Tribe of Nebraska*

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*Stockbridge Munsee Band of  
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*Seneca Nation of Indians*

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**Leonard Forsman**  
*Suquamish Tribe*

###### **PACIFIC**

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*Cahuilla Band of Indians*

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**MARK POLLOCK**  
*Blackfeet Nation*

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**Nancy Carnley**  
*Ma-Chis Lower Creek Indian  
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**Robert Tippeconnie**  
*Comanche Nation*

###### **SOUTHWEST**

**Vacant**

###### **WESTERN**

**Alan Mandell**  
*Pyramid Lake Paiute Tribe*

###### **CHIEF EXECUTIVE OFFICER**

**KEVIN ALLIS**  
*Forest County Potawatomi  
Community*

##### **NCAI HEADQUARTERS**

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[www.ncai.org](http://www.ncai.org)

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, there continues to be a great need for the deployment and development of reliable and affordable wireless services on tribal lands nationwide; and

**WHEREAS**, the Federal Communications Commission (FCC) adopted new rules in its Report and Order FCC 19-62, “Transforming the 2.5 GHz Band” in Educational Broadband Services (EBS) spectrum, in which the FCC provides the important opportunity for tribal nations to obtain a license through a Tribal Priority mechanism; and

**WHEREAS**, there is a very high level of interest among tribal nations nationwide in obtaining such a license and self-provisioning services to their tribal nations; and

**WHEREAS**, there is also a challenging learning curve on the licensing, financing, planning, and deployment engineering aspects of these potential projects – as well as the critically important and time-intensive internal decision making and budget authorization processes of over 500 sovereign tribal nations all of which are critically important to the potential success of any projects of tribal nations in 2.5 GHz.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) calls upon the FCC to (1) adjust the opening of the window to April 1, 2020 so that the FCC can provide proper notice and guidance, introduce complete mapping tools, as well as provide robust outreach, and government-to-government consultation and training with inter-tribal government associations and entities in all regions of the country, and (2) extend the timeframe for the Tribal Priority window to a full 180 days so that eligible entities have an opportunity to adequately prepare for and obtain the Tribal Priority license, thus ensuring the greatest possibility of success for the implementation of a license to deploy broadband services in the 2.5 GHz EBS spectrum; and

**BE IT FURTHER RESOLVED**, that NCAI calls upon the FCC to remove the “rural” tribal lands criteria of these rules, as NCAI firmly believes that the FCC’s trust relationship and fiduciary obligation to make all regulated services available to tribal nations and the residents of tribal lands, in order to close the persistent digital divide that exists on tribal lands, extends not only to *some* tribal nations and their communities, but *all* tribal nations; and

**BE IT FURTHER RESOLVED**, that NCAI calls upon the FCC to fulfill the legal obligations of the United States federal government in all of its agencies and treat all lands held in trust on behalf of tribal nations similarly and include them in their licensing mechanisms, such as all “off-reservation trust lands;” and

**BE IT FURTHER RESOLVED**, that NCAI requests that the FCC engage with the appropriate governmental authorities of Hawai’i to identify and designate potential entities within the Native Hawai’ian community, that represent Native Hawai’ian local communities and society, for standing as licensable entities for the purposes of the Tribal Priority; and


**BE IT FURTHER RESOLVED**, that NCAI requests that the FCC create a regulatory mechanism in all relevant services to provide tribal nations the opportunity of a first right of refusal, such as a Tribal Priority, for new spectrum services, spectrum partitioning and disaggregation and secondary markets opportunities to deploy service over Tribal lands; and

**BE IT FURTHER RESOLVED**, that NCAI requests that this resolution be filed as an ex parte comment in the appropriate FCC dockets, and also provided to the FCC-Native Nations Communications Task Force; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2019 Annual Session of the National Congress of American Indians, held at the Albuquerque Convention Center, October 20-25, 2019, with a quorum present.



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Fawn Sharp, President**ATTEST:**

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Juana Majel Dixon, Recording Secretary